

- c. The steps being taken or to be taken to reduce, eliminate and prevent a reoccurrence of the bypass.

Sec. 26-267 to 26-270. Reserved.

DIVISION 4. FATS, OILS, AND GREASE

Sec. 26-271. Grease, fats and oils removal systems; oil/sand separators.

(a) *When required.* Facilities generating fats, oils, or greases as a result of food manufacturing, processing, or preparation, or food service shall install, use, and maintain grease traps or interceptors in accordance with this division. These facilities include, but are not limited to restaurants, food manufacturers, food processors, hospitals, hotels and motels, prisons, nursing homes, and any other facility preparing, serving, or otherwise making any foodstuff available for consumption. An oil/sand separator shall be provided for the proper handling of any flammable wastes, sand, and other harmful ingredients, except that such separators shall not be required for private living quarters or dwelling units, except as may be required under Section 26-263.

(b) *Approval by city; location.* All grease, fats and oils removal systems and oil/sand separators shall be of a type and capacity approved by the city and shall be located as to be readily and easily accessible for cleaning and inspection.

(c) *Construction.* Grease, fats and oils removal systems and oil/sand separators shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

(d) *Operation.* Where installed, all grease, fats and oils removal systems and oil/sand separators shall be maintained by the owner at his expense in continuously efficient operation at all times. "Continuously efficient operation" shall mean that no obstruction to the flow of wastewater due to grease, fats, and oils occurs in the sewer service line, sewer main, or the manhole to which the facility discharges, and/or in the opinion of the City, no significant accumulation of grease, fats, and oils occurs on the inside walls of the sewer service line, sewer main, or the manhole to which the facility discharges. If any or all of these conditions are present, a continuously efficient operation shall be considered not to have been achieved, and the owner will be in violation of this article.

Sec. 26-272. Installations

(a) *New facilities.* Food processing or food service facilities that are newly proposed or constructed, or existing facilities that will be expanded or renovated to include food processing or food service facilities, where such facilities did not previously exist, shall be required to design, install, operate and maintain a grease trap/interceptor. Grease traps/interceptors shall be installed and inspected prior to issuance of a certificate of occupancy and prior to any food processing or food service.

(b) *Existing facilities.* Existing grease traps/interceptors must be constructed, operated and maintained in accordance with the manufacturer's recommendations and city requirements, including but not limited to the adopted plumbing code, unless specified in writing and approved by the city.

(c) *Retrofitting.* If the city determines that a grease trap/interceptor is inadequate to deal with

the grease generated by a user, the city may require the user to retrofit the premises with a grease trap/interceptor that meets certain specifications as determined by the city. As used herein, “inadequate” means that an interceptor is not present, an interceptor has been bypassed, or an interceptor is not large enough to handle the fats, oils, and grease generated by the user.

- (1) Where the city requires retrofitting, the city shall provide written notice to the user and to the property owner. The notice shall state the reason retrofitting is required, the specifications that the trap/interceptor must meet, and a date by which the retrofitting must be completed.
- (2) If the user or property owner disagrees with the requirement to retrofit, an appeal may be filed with the City Manager by filing a written notice of appeal with the City Secretary's Office within 10 business days of receiving the notice to retrofit the grease trap/interceptor. The notice of appeal must set out in detail the specific reason(s) why the user or property owner believes retrofitting is not needed and why the city's notice is incorrect.
- (3) The City Manager, or someone designated by the City Manager, shall review the appeal letter and other relevant information before issuing a decision on the appeal. That decision shall be final and not subject to further appeal.
- (4) Failure to retrofit the grease trap/interceptor as required by the notice, or the decision after an appeal, shall be a violation of this article.

Sec. 26-273. Cleaning and Maintenance

- (a) All grease trap/interceptor waste shall be properly disposed of at a facility in accordance with federal, state, or local regulation.
- (b) Grease traps and grease interceptors shall be maintained in an efficient operating condition at all times.
- (c) Each grease trap pumped shall be fully evacuated unless the trap volume is greater than the tank capacity on the vacuum truck, in which case the transporter shall arrange for an additional transportation capacity so that the trap is fully evacuated within a 24-hour period.
- (d) **Cleaning Schedules**
 - (1) Grease traps and grease interceptors shall be cleaned as often as necessary to ensure that sediment and floating materials do not accumulate to impair the efficiency of the grease trap/interceptor; to ensure the discharge is in compliance with local discharge limits; and to ensure no visible grease is observed in discharge.
 - (2) Grease traps and grease interceptors shall be completely evacuated:
 - a. Every ninety (90) days; or
 - b. More frequently than every ninety (90) days when:
 - i. Twenty-five (25) percent or more of the wetted height of the grease trap or interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils or grease; or
 - ii. The discharge exceeds to BOD, COD, TSS, FOG, pH, or other pollutant levels established by the city for significant industrial user or as provided in this chapter; or

- iii. There is a history of non-compliance as determined by the city and the city gives written notice to the user of the need to evacuated more frequently than every ninety (90) days.
 - (3) Any person who owns or operates a grease trap/interceptor may submit to the city a request in writing for an exception to the ninety (90) day pumping frequency of their grease trap/interceptor. The city may grant an extension for required cleaning frequency on a case-by-case basis when:
 - a. The grease trap/interceptor own/operator has demonstrated the specific trap/interceptor will produce an effluent, based on defensible analytical results, in consistent compliance with established local discharge limits such as BOD, TSS, FOG, or other parameters as determined by the city; or
 - b. Less than twenty-five (25) percent of the wetted height of the grease trap or grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils or grease.
 - (4) At a minimum, if not required to be evacuated, cleaned, or inspected sooner as set forth above, a grease trap or grease interceptor shall be fully evacuated, cleaned, and inspected at least once every 180 days.
- (e) Self-Cleaning
- (1) Grease trap self-cleaning operators must annually submit a completed self-cleaning request to the city for approval. The written request shall include the following information:
 - a. Business name and street address;
 - b. Grease trap/interceptor operator name, title, and phone number;
 - c. Description of maintenance frequency, method of disposal, method of cleaning and size (in gallons) of the grease trap/interceptor; and
 - d. Signed statement that the operator will maintain records of waste disposal and produce them for compliance inspections.
 - (2) Grease trap self-cleaning operators must receive approval from the city annually prior to removing grease from their own grease trap(s) located inside a building, provided:
 - a. The grease trap is no more than fifty (50) gallons in liquid/operating capacity;
 - b. Proper on-site material disposal methods are implemented (e.g. absorb liquids into solid form and dispose into trash);
 - c. Grease trap waste is placed in a leak proof, sealable container(s) located on the premises and in an area for the transporter to pump-out; and
 - d. Detailed records on the activities are maintained.
 - (3) Self-cleaners must adhere to all the requirements for procedures and detailed record keeping outlined in their approved application to ensure compliance with this ordinance. A maintenance log shall be kept by self-cleaning operators that indicates, at a minimum, the following information:
 - a. Date the grease trap/interceptor was serviced;

- b. Name of the person or company servicing the grease trap/interceptor;
 - c. Waste disposal method used;
 - d. Gallons of grease removed and disposed of;
 - e. Waste oil added to grease trap/interceptor waste; and
 - f. Signature of the operator after each cleaning that certifies that: all grease was removed and disposed of properly; the grease trap/interceptor was thoroughly cleaned; and all parts were replaced and in operable condition.
- (4) Violations incurred by grease trap self-cleaners will be subject to enforcement action including fines and/or removal from the self-cleaner program.
- (f) Manifest Requirements
- (1) Each pump-out of a grease trap or interceptor must be accompanied by a manifest to be used for record keeping purposes.
 - (2) Persons who generate, collect and transport grease waste shall maintain a record of each individual collection and deposit. Such records shall be in the form of a manifest. The manifest shall include:
 - a. Name, address, phone number, and commission registration of transporter;
 - b. Name, signature, address, and phone number of the person who generated the waste and the date collected;
 - c. Type and amount(s) of waste collected or transported;
 - d. Name and signature(s) of responsible person(s) collecting, transporting, and depositing the waste;
 - e. Date and place where the waste was deposited;
 - f. Identification (permit or site registration number, location, and operator) of the facility where the waste was deposited;
 - g. Name and signature of facility on-site representative acknowledging receipt of the waste and the amount of waste received;
 - h. The volume of the grease waste received; and
 - i. A consecutive numerical tracking number to assist transporters, waste generators, and regulating agencies in tracking the volume of grease transported.
 - (3) Manifests shall be divided into five parts and records shall be maintained as follows:
 - a. One part of the manifest shall have the generator and transporter information completed and be given to the generator at the time of waste pickup.
 - b. The remaining four parts of the manifest shall have all required information completely filled out and signed by the appropriate party before distribution of the manifest.
 - (i) One part of the manifest shall go to the receiving facility.

- (ii) One part shall go to the transporter, who shall retain a copy of all manifests showing the collection and disposition of waste.
 - (iii) One copy of the manifest shall be returned by the transporter to the person who generated the wastes within 15 days after the waste is received at the disposal or processing facility.
 - (iv) One part of the manifest shall go to the city.
 - (4) Copies of manifests returned to the waste generator shall be retained for five years and be readily available for review by the city.
- (g) Alternative Treatment
- (1) *Violation to use.* A person commits an offense if the person introduces, or causes, permits, or suffers the introduction of any surfactant, solvent or emulsifier into a grease trap. Surfactants, solvents, and emulsifiers are materials that allow the grease to pass from the trap into the collection system, and include but are not limited to enzymes, soap, diesel, kerosene, terpene, and other solvents. It is an affirmative defense to enforcement of this section that the use of surfactants or soaps is incidental to normal kitchen hygiene operations.
 - (2) Bioremediation media may be used with the city's approval if the person has proven to the satisfaction of the city that laboratory testing which is appropriate for the type of grease trap to be used has verified that:
 - a. The media is a pure live bacterial product that is not inactivated by the use of domestic or commercial disinfectants and detergents, strong alkalis, acids, an/or water temperatures of 160° F (71° C).
 - b. The use of the media does not reduce the buoyancy of the grease layer in the grease trap and does not increase the potential for oil and grease to be discharged to the sanitary sewer.
 - c. The use of bioremediation media does not cause foaming in the sanitary sewer.
 - d. The BOD, COD, and TSS discharged to the sanitary sewer after use of the media does not exceed the BOD, COD, and TSS which would be discharged if the product were not being used and the grease trap was being properly maintained. pH levels must meet standards setout in Section 26-203.
 - (3) All testing designed to satisfy the criteria set forth in the above section be scientifically sound and statistically valid. All tests to determine oil and grease, TSS, BOD, COD, pH, and other pollutant levels shall use appropriate tests which have been approved by the Environmental Protection Agency and the Texas Commission on Environmental Quality. Testing shall be open to inspection by the city, and shall meet the city's approval.

Sec. 26-274. Schedule of Civil Penalties

- (a) *Civil Penalty - Generator.* If the city determines that a generator is responsible for a blockage in the wastewater system, the generator shall owe a civil penalty of \$1,000 for the first violation, \$1,500 for a second violation, and \$2,000 for the third violation within a two-year period. After the third violation, each successive violation within a two-year period shall result in an increase in civil penalty by \$500 and may also result in termination of services. The collection

of a civil penalty does not preclude assessing a surcharge or cost recovery fee, or filing a criminal action for violating a provision of this Article, but is in addition to a possible surcharge or cost recovery fee, or criminal action.

(b) *Civil Penalty – Person.* Any person (other than the generator) violating any of the provisions of this division shall be subject to a written warning for the first violation, a \$1,000 civil penalty for the second violation, a \$1,500 civil penalty for the third violation, and a \$2,000 civil penalty for the fourth violation within a two year period. After the fourth violation, each successive violation within a two-year period shall result in a \$500 increase in civil penalty and may result in termination of service. The collection of a civil penalty does not preclude assessing a surcharge or cost recovery fee or filing a criminal action for violating a provision of this article, but is in addition to a possible surcharge or cost recovery fee or criminal action.

Sec. 26-275. Monitoring, inspections, and right of entry.

The conditions and requirements of Sec. 26-211 and Sec. 26-220 (b) of this article apply to right-of-entry and inspection of facilities covered.

Secs. 26-276--26-280. Reserved.

DIVISION 5. NON-SEWER DISCHARGES

Sec. 26-281. Purpose and policy.

- (a) This division provides for the regulation of discharges into non-sewer waters.
- (b) The objectives of this division are to:
 - (1) prevent the introduction of substances into non-sewer waters when such substances constitute, cause, or may cause a health hazard to humans or animals or otherwise create a health hazard or are physically harmful to non-sewer waters;
 - (2) prevent the discharge of such substances into non-sewer waters without such substances first being adequately tested or treated;
 - (3) improve the opportunity to prevent the pollution of non-sewer waters;
 - (4) protect the general public; and,
 - (5) require and enforce compliance with the WMARSS TPDES permit Water Pollution Control Act, also known as the Clean Water Act; Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); Clean Air Act; Toxic Substances Control Act; Marine Protection, Research and Sanctuaries Act; and any state and federal regulations pertaining to pollution of natural outlets, watercourses, ditches, lakes, septic tanks, receiving waters, underground water, or other bodies of surface water or groundwater.
- (c) This division provides for the regulation of prohibited discharges into non-sewer waters by authorizing and providing for enforcement of the requirements of this article by criminal and civil penalties set forth in this article.

Sec. 26-282. Prohibited discharges.

(a) No person may discharge or cause to be discharged onto land or into non-sewer waters or any watercourse any of the following substances:

- (1) All waste, wastewater, or other substances containing phenols, unionized hydrogen sulfide, or other taste-producing and odor-producing substances which do not conform to concentration limits established by appropriate regulatory agencies;
- (2) Any substance constituting a health hazard to humans or animals or otherwise creates a health hazard or is physically harmful to non-sewer waters;
- (3) Chemical discharges;
- (4) Garbage, whether properly shredded or not;
- (5) Grease;
- (6) Groundwater;
- (7) Hazardous metal or heavy metals and toxic materials;
- (8) Industrial waste;
- (9) Medical waste, isolation waste, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes;
- (10) Normal domestic wastewater;
- (11) Automotive oil, petroleum oil and other petroleum products, non-biodegradable cutting oil, or products of mineral oil origin;
- (12) Pollutants;
- (13) Radioactive waste;
- (14) Sewage;
- (15) Slug or slug load;
- (16) Subsurface drainage;
- (17) Surface water;
- (18) Suspended solids;
- (19) Synthetics of the substances listed under this section;
- (20) Untreated wastewater;
- (21) Waste;
- (22) Other waste characterized as hazardous, toxic, or harmful by local, state, or federal rules, statutes and regulations.

(b) This division applies only to discharges in non-sewer waters not otherwise regulated, permitted, approved, required, or allowed pursuant to the sections of this article pertaining to discharge into sewers and the sewer system, and applicable state and federal laws.

(c) This division does not apply to sec. 26-206, pertaining to written approval of the city and appropriate regulatory agencies for the discharge of unpolluted process water or unpolluted cooling water to a storm sewer, natural outlet, or into the city sanitary sewer system or for the discharge of storm water and all other unpolluted drainage into sewers specifically designated as storm sewers, or to a natural outlet, approved by the city and appropriate regulatory agencies.

(d) This division shall apply to discharges in non-sewer waters caused by or resulting in accidental discharges, upsets, bypasses, or other illegal or unauthorized dumping.

(e) No person may discharge or cause to be discharged onto roads or land for dust suppression, weed abatement, or other similar uses anything that introduces such substances into the environment.

Sec. 26-283. Authority.

This division shall apply in a manner to be consistent with, and authorized and enforced pursuant to: the WMARSS TPDES permit; Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II, commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; the Marine Protection, Research and Sanctuaries Act; and any state and federal regulations pertaining to pollution of natural outlets, watercourses, ditches, lakes, receiving waters, underground water, or other bodies of surface water or groundwater.

Sec. 26-284. Inspections/sampling/monitoring.

Where appropriate and applicable, the city may initiate inspections, sampling, and monitoring pursuant to this article in order to ascertain whether the purposes of this division are being met and all requirements are being complied with.

Secs. 26-285--26-289. Reserved.

DIVISION 6. PENALTIES

Sec. 26-290. Liability.

Any person violating any of the provisions of this article, any condition of a sewer use permit issued in accordance with this article, or any order or directive of the city authorized under this article, shall become liable to the city for any expense, loss, or damage occasioned by the city by reason of such violation.

Sec. 26-291. Misdemeanor.

Any person who violates any provision of this article, any condition of a sewer use permit issued in accordance with this article, or any order or directive of the city authorized under this article, shall be deemed guilty of a misdemeanor punishable as provided in Chapter 1 of this Code of Ordinances or as specifically provided in this article. Each day in which any such violation shall continue shall be deemed a separate offense.

Sec. 26-292. Injunction.

Any violation of this article, any condition of a sewer use permit issued in accordance with this article, or any order or directive of the city authorized under this article, may be enjoined by a suit filed in the name of the city in a court of competent jurisdiction. This remedy shall be in addition to any penal provision in this article.

Sec. 26-293. Civil penalties.

Notwithstanding Secs. 26-291 and 26-292, and in addition to any penalty or remedy granted thereunder, any person who violates any provision of this article, any condition of a sewer use permit issued in accordance with this article, or any order or directive of the city authorized under this article, shall be deemed liable for civil penalties as allowed under law.

Sec. 26-294. Cost of Recovery Fee.

Notwithstanding any provision in this article and in addition to any other penalty or remedy provided for under this article, any person who violates any provision of this article, any condition of a sewer use permit issued in accordance with this article, or any order or directive of the city authorized under this article, may be assessed a fee to cover the costs to handle and treat wastes discharged, directly or indirectly, into the public sewer, sanitary sewer, storm sewer, or wastewater system. If the violation is associated with a sewer user account, the fee may be added on the sewer user account billing.

Secs. 26-295 --26-299. Reserved

Section 4. That Section 26-1 of Chapter 26 "Utilities," of the Code of Ordinances of the City of Waco, Texas, shall be and is hereby amended as shown herein (additions/deletions):

Sec. 1-15. Enforcement of this Code.

(a) Actions for violating provisions within this Code of Ordinances may be initiated by issuance of a citation requiring that the person cited appear before the municipal court within ten days, issuance of a summons requiring that the person named appear before the municipal court at a specified time on a specified date, or arrest of the person with or without an arrest warrant as permitted by state law. A citation may be issued by a police officer, personnel assigned to the fire marshal's office and other fire department personnel designated by the fire chief to enforce fire codes and fire prevention provisions, persons inspectors employed by the city and designated as inspectors or environmental enforcement officers, or a park ranger. Citations for illegally parking in fire lanes, next to fire hydrants, in disabled parking spaces, and in other prohibited areas may be issued by personnel assigned to the fire marshal's office and other fire department personnel designated by the fire chief to enforce fire codes and fire prevention provisions, inspectors employed by the city, or park rangers, as well as police officers.

(b) A person issued a citation requiring an appearance before the municipal court within ten days commits an offense under this Code if he intentionally or knowingly fails to appear within that ten-day period. However, it shall be an affirmative defense to prosecution under this section if that person had a reasonable excuse for his failure to appear.

(c) Where a person is issued a summons requiring an appearance before the municipal court at a specific time on a specific date and he does not appear, such person may be found in contempt of the court as provided for under state law.

(d) A culpable mental state is not required for the commission of an offense under this Code of Ordinances, unless the provisions defining the conduct expressly require a culpable mental state.

Section 5. If any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is, for any reason, held to be unconstitutional, void or invalid, the validity of the remaining portions of this ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 6. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 7. That it is the intention of the City Council and is hereby ordained that the provisions of this Ordinance shall become and be part of the Code of Ordinances of the City of Waco, Texas, and that sections of this Ordinance and of the Code of Ordinances may be renumbered or relettered to accomplish such intention.

Section 8. That a violation of Article VI of Chapter 26, as amended by this ordinance, shall be a misdemeanor and the penalty for violating this ordinance shall be as provided for in Section 1-14 of the Code of Ordinances of the City of Waco, as amended, which shall be a maximum fine of \$2,000.00, unless otherwise provided in Chapter 26. Each day a violation exists or each occurrence of an event or act shall be a separate offense.

Section 9. That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law and that public notice of the time, place, and purpose of said meeting was given as required.

PASSED AND APPROVED:

First Reading: the 7th day of March, 2006.

Second Reading: the 21st day of March, 2006.

Virginia DuPuy, Mayor
City of Waco, Texas

ATTEST:

Patricia W. Ervin, City Secretary

APPROVED AS TO FORM & LEGALITY:

Art Pertile, III, City Attorney